

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BREAKBEAT MEDIA LLC and DAVID MAYS,	:
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Plaintiffs and Counterclaim Defendants,	:
	:
-v-	:
	:
FM ENTERTAINMENT LLC F/S/O MARCO	:
SUMMERS P/K/A “FUNNY MARCO” and MARCO	:
SUMMERS,	:
	:
Defendants and Counterclaimants.	:
	:
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23-CV-7029 (JMF)

ORDER GRANTING
TEMPORARY
RESTRAINING ORDER

JESSE M. FURMAN, United States District Judge:

This matter is before the Court upon the motion of Counterclaimants FM Entertainment LLC f/s/o Marco Summers p/k/a “Funny Marco” and Marco Summers (collectively, “Summers”) for a temporary restraining order against Counterclaim Defendants Breakbeat Media LLC and David Mays (collectively, “Breakbeat”). The Court has considered the Answer and Counterclaims; the Declarations of Harvey Sutton, Marco Summers, and Jonah A. Grossbardt (and exhibits thereto); the Memorandum of Law in Support of Counterclaimants’ Motion for a Temporary Restraining Order and Preliminary Injunction; and the parties’ oral argument during the conference held on the record earlier today.

As discussed on the record during the conference held earlier today, the Court finds that, at a minimum, there are sufficiently serious questions going to the merits to make them a fair ground for litigation and the balance of hardships tips decidedly in Summers’s favor; that Summers is likely to suffer irreparable injury in the absence of a temporary restraining order; and that the public interest would be served by the issuance of a temporary restraining order.

Accordingly, IT IS HEREBY ORDERED that Breakbeat, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns and entities owned or controlled by Breakbeat, and all those in active concert and participation with any of them who receive notice directly or otherwise of this order are hereby temporarily restrained and enjoined from submitting notices to any service provider representing that Summers’s content infringes any purported copyright or other intellectual property rights of Breakbeat, its agents, or employees.

IT IS FURTHER ORDERED that Breakbeat shall promptly retract the four DMCA takedown notifications that Breakbeat has filed on the following URLs:

- (i) https://youtu.be/nQKG_tgh5-0 (Funny Marco Interviews DaBaby on Funny Marco's YouTube channel);
- (ii) https://youtu.be/x_Qgsj2p0io (Funny Marco Interviews DaBaby on Funny Marco's Open Thoughts YouTube channel);
- (iii) <https://youtu.be/p1oJngesSOE> (Funny Marco Interviews Sexy Red on Funny Marco's YouTube channel; and
- (iv) https://youtu.be/wIFj00Sf_qM (Funny Marco Interviews Sexy Red on Funny Marco's Open Thoughts YouTube channel).


IT IS FURTHER ORDERED that Summers shall post a \$5,000 bond.

As discussed on the record at the conference held earlier today, Breakbeat shall file any opposition to Summers's motion for a preliminary injunction by **October 13, 2023**; any reply shall be filed by **October 20, 2023**.

In light of Breakbeat's consent on the record, this temporary restraining order shall remain in effect until the Court rules on Summers's motion for a preliminary injunction. *See* Fed. R. Civ. P. 65(b)(2).

SO ORDERED.

Dated: October 2, 2023
New York, New York



JESSE M. FURMAN
United States District Judge